



STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:

**ERICA REDGATE,**  
Complainant,

and

**RAFAEL GARCIA and**  
**ASCENSION TELLEZ,**  
Respondents.

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) CHARGE NO: **2000CN1292**

) EEOC(S): **N/A**

) ALS(S): **11494**

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**RECOMMENDED ORDER AND DECISION**

On March 22, 2001, the Illinois Department of Human Rights filed a Complaint with the Illinois Human Rights Commission on behalf of Complainant, Erica Redgate. That Complaint alleged that Respondents, Rafael Garcia and Ascension Tellez, sexually harassed Complainant.

This matter was set for a Public Hearing for the first time on May 29, 2001, at 9:30 a.m. Respondents filed an Answer to the Complaint on April 30, 2001. On May 29, 2001, both parties appeared for the initial status and a scheduling order was entered in this matter. A final status date was set for January 9, 2002, at 1:30 p.m. On January 9, 2002, Respondents appeared through counsel and Complainant failed to appear. The matter was set for further status on February 28, 2002, at 2:00 p.m., with the Commission indicating that if Complainant failed to appear it would consider dismissal of the case. A copy of the order was sent to the Complainant via the mail by Respondents. On February 28, 2002, Respondents again appeared, while Complainant again failed to appear. An order was entered granting Respondents leave to file a motion to dismiss to be heard on March 28, 2002, at 2:00 p.m. A copy of the order was again sent to the Complainant via

the mail by Respondents. Respondents filed a Motion to Dismiss on March 5, 2002 with the hearing date set for March 28, 2002, as per the previous order. Notice was sent to the Complainant by Respondents. On March 28, 2002, Respondents appeared before the Commission through counsel and Complainant failed to appear. An order granting Respondents' Motion to Dismiss was entered indicating that a Recommended Order and Decision would follow.

Despite being served with orders requiring Complainant to appear before the Commission as well as the Motion to Dismiss, Complainant never appeared before this Commission nor did she respond to the Motion to Dismiss. The matter is now ready for decision.

### **FINDINGS OF FACT**

The following findings of fact are based upon the case file for this matter.

1. Both the Complainant and Respondent were served with notice of a Public Hearing set for May 29, 2001, at 9:30 a.m., in this matter. On May 29, 2001, both parties appeared and a scheduling order was entered with a final status date of January 9, 2002. The order directed both parties to appear for the final status date.

2. On January 9, 2002, Respondent appeared for the final status date and Complainant failed to appear or otherwise explain why she did not appear. An order was entered directing Complainant to appear for further status on February 28, 2002. The order indicated that if the Complainant failed to appear, the Commission would consider dismissal of the case.

3. A copy of the January 9, 2001 order was sent to Complainant on January 9, 2002 with proof of service filed with the Commission on February 15, 2002.

4. On February 28, 2002, Respondents appeared for the status hearing and Complainant again failed to appear. An order was entered granting Respondents leave to file a motion to dismiss with a hearing date of March 28, 2002, at 2:00 p.m.

5. A Motion to Dismiss was filed by Respondents on March 5, 2002 with notice being given to Complainant along with a copy of the February 28, 2002 order, with proof of service filed with the Commission by Respondents. The motion was set for March 28, 2002, at 2:00 p.m., as per the previous order.

6. On March 28, 2002, Respondents, through counsel, appeared for the hearing, while Complainant again failed to appear or otherwise notify the Commission as to the reason why she failed to appear. An order was entered granting Respondents' Motion to Dismiss.

7. Complainant has failed to appear before this Commission on numerous times after being ordered to do so. Complainant has also failed to respond to Respondents' motion or appear for hearing on the motion, and has failed to explain the reason she has failed to appear or respond in this matter.

#### **CONCLUSION OF LAW**

1. Complainant's apparent refusal to respond to Respondent's motion; her failure to appear before this Commission after she was ordered to do so, and; her failure to explain her absence and refusal have unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of her claim, it is appropriate to dismiss this matter with prejudice.

### **DISCUSSION**

Complainant was directed by this Commission to appear before it for final status on January 9, 2002, at 1:30 p.m., but failed to appear. She was then ordered to appear before this Commission for further status on February 28 2002, at 2:00 p.m. with the directive that if she failed to appear, a dismissal of the case would be considered. On February 28, 2002, Complainant again failed to appear as ordered and Respondents were granted leave to file a motion to dismiss. A Motion to Dismiss was filed by Respondents and the matter was set to be heard on March 28, 2:00 p.m. with notice given to the Complainant. On March 28, 2002, Complainant again failed to appear or otherwise explain her absence or her failure to respond to the motion. An order granting Respondents' Motion to Dismiss was then entered.

Complainant's inaction has unreasonably delayed the proceedings in this matter, and it appears that Complainant simply has abandoned her claim. As a result, it is appropriate to dismiss this case with prejudice. See **Leonard and Solid Matter, Inc.**, \_\_\_ Ill. HRC Rep. \_\_\_, (1989CN3091, August 25, 1992).

### **RECOMMENDATION**

Based upon the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that this case be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
NELSON E. PEREZ  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: June 4, 2002